

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMES PETTUS,

Plaintiff,

v.

9:06-CV-0030
(LEK)(DRH)

CAPTAIN RICHARDS; DONALD SELSKY; THERESA
KNAPP-DAVID; JOHN AND JANE DOES,

Defendants.

APPEARANCES:

OF COUNSEL:

JAMES PETTUS
03-R-3597
Plaintiff, *pro se*

HON. ANDREW M. CUOMO
New York State Attorney General
Attorney for Represented Defendants

ED J. THOMPSON, Esq.
Assistant Attorney General

DAVID R. HOMER, United States Magistrate Judge

DECISION and ORDER

Plaintiff James Pettus has filed a motion to compel discovery pursuant to Rule 37 of the Federal Rules of Civil Procedure ("FED. R. CIV. P."). Dkt. No. 20. Plaintiff seeks to compel a response to Interrogatories served upon the Defendants on or about September 22, 2006. *Id.* When Plaintiff did not receive a response to the Interrogatories, he re-served them on Defendants multiple times in what he referred to as his "good faith attempt for discovery."¹ Dkt. No. 20 at 6-9.

Defendants oppose Plaintiff's motion as moot. Dkt. No. 21. Defendants indicate that they have now responded to all of Plaintiff's discovery requests, and have provided

¹ Plaintiff included one additional interrogatory in his subsequent sets. See Dkt. No. 20 at 7, ¶ 8.

the Court with a copy of their responses.² *Id.* Plaintiff has not taken exception to Defendants' assertion that they have responded to Plaintiff's discovery requests. Accordingly, Plaintiff's motion to compel is moot. *See, e.g., Hamilton v. Poole*, No. 95-CV-239H, 1997 WL 626406, at *6 (W.D.N.Y. Sep. 22, 1997) (denying motion to compel filed by plaintiff where defendants responded to discovery after motion was filed). Additionally, the Court has reviewed Defendants' responses in conjunction with the discovery requests and finds that Defendants have substantially complied with the proffered discovery. Plaintiff's motion to compel is therefore **denied**.


WHEREFORE, it is hereby

ORDERED, that Plaintiff's Motion to Compel (Dkt. No. 20) is **DENIED**, and it is further

ORDERED, that the Clerk serve a copy of this Order on the parties.

IT IS SO ORDERED.

Dated: April 19, 2007


United States Magistrate Judge

² The copy of the responses provided to the Court does not include copies of documents that were provided to the Plaintiff.